

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Terrence Dimingo Terry,)	C/A No. 6:10-2006-JFA-KFM
)	
Petitioner,)	
vs.)	ORDER
)	
Mr. Leroy Cartledge, Warden of McCormick)	
Correctional Institution,)	
)	
Respondent.)	
_____)	

The *pro se* petitioner, Terrence Dimingo Terry, brings this action pursuant to 28 U.S.C. § 2254. The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that the petitioner's motion for default judgment is without merit and should be denied. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation and without a hearing.

The petitioner was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on November 3, 2010. The petitioner filed a twelve-page objection to the Report. He also previously filed a seven-page response in opposition to the respondent's motion for an extension of time to answer.


¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

As the Magistrate Judge points out in his Report, the court authorized service upon the respondent on August 13, 2010 and the return/answer was due on October 7, 2010. The respondent timely filed a motion for an extension of time which the Magistrate Judge granted, making the return/answer due on November 8, 2010. On November 8, 2010, after the Report was entered, the respondent filed another motion to extend time, which was also granted. The respondent's return/answer is now due on December 8, 2010.

After a careful review of the record, the applicable law, and the Report and Recommendation, and the objections thereto, the court finds the Magistrate Judge's recommendation proper and incorporated herein by reference. Accordingly, petitioner's motion for default judgment is denied. The Clerk shall return this file to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

November 30, 2010
Columbia, South Carolina

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge